



September 10, 2013

## **Policy 522**

# **Security and Release of Records and Information**

### **522.1 PURPOSE AND SCOPE**

The purpose of this section is to establish a comprehensive reference and procedure for the maintenance and release of Office reports and records in accordance with applicable law.

This policy does not prevent the Office from voluntarily making part or all of specific information available to the public unless disclosure is expressly prohibited by law or the information is deemed confidential.

#### **522.1.1 DEFINITIONS**

- 1) Public Records - A record kept by the Office that is created received or kept in the performance of a duty and paid for with public money (NAC 239.091).
- 2) Records Management - The systematic control and management of information throughout the life cycle of the information, including, without limitation, the creation, use, maintenance, retention and ultimate disposition of the information (NAC 239.106).

### **522.2 PUBLIC REQUESTS FOR RECORDS**

- 1) The Office may comply with Nevada law, regarding the retention schedule prescribed by the Nevada State Library and Archives Administrator, or the Office may establish its own program upon proper approval (NRS 239.125(1)).
- 2) The Office shall prominently display a sign that contains basic rights of a person who requests public information, the responsibilities of the Office and the procedures, to include the cost, of inspecting or obtaining copies (NRS 239.052).
- 3) Requests for information that the Office believes is confidential and wishes to withhold from the public that is not specifically allowed by statute or judicial decision will be sent to the Attorney General for a decision (NRS 239.0113).
- 4) Records created by the Office shall be subject to inspection and release pursuant to lawful requests, except pursuant to exemptions established by statute or judicial order. Public requests for records of this office shall be processed as follows:

### **522.2.1 PROCESSING OF REQUESTS**

- 1) Any member of the public, including the media, may request access to unrestricted records of this office by submitting a separate written and signed request for each individual and specifically identified record sought to an authorized employee during normal business hours.
- 2) Requests shall be completed as soon as possible under the specific circumstances of the request but no later than five business days.
- 3) If the request cannot be fulfilled within five business days after the date of request, the Office shall notify the requester in writing (NRS 239.0107(1)).
- 4) Requests from involved individuals, their authorized representatives and other agencies are addressed below. The processing of requests is subject to these limitations:

### **522.2.2 Security and Release of Records and Information**

- 1) The authorized receiving employee shall determine if the requested record is available and/or subject to any exemption from disclosure. Processing of such requests may take up to five days.
- 2) The requesting party shall be required to pay in advance any established fee for each record sought. The fee may not exceed the actual cost to provide the record unless required by law to be provided at no cost (NRS 239.052).
- 3) The Office shall not be required to create records which do not otherwise exist. However, existing records may be copied in such a manner as to provide the requesting party with unrestricted portions of any record.

### **522.3 REPORT RELEASE RESTRICTIONS**

Absent a valid court order or other statutory authority, records and/or unrestricted portions of such records of this office shall be made public subject to the following restrictions:

#### **522.3.1 GENERAL CASE AND CRIME REPORTS**

- 1) Reports containing any of the items listed below will not be released:
  - a) Victim Information - Victims of crimes who have requested that their identifying information be kept confidential, victims who are minors and victims of certain offenses shall not be made public. It is unlawful to release confidential victim information to unauthorized persons (NRS 200.3772 and NRS 178.5691).
  - b) Confidential Information - Information involving confidential informants, intelligence information, information that would endanger the safety of any person involved or information that would endanger the successful completion of the investigation or a related investigation shall not be made public.
    1. Analysis and conclusions of investigating deputies may also be exempted from disclosure.
    2. If it has been noted in any report that an individual wishes to protect his/her right to privacy under the Nevada Constitution, such information may not be subject to public disclosure.
    3. Information on the actual identity of a victim of sexual assault or an offense involving a pupil who has filed a pseudonym name may not be made subject to public disclosure (NRS 200.3772).

- c) General Information - Absent statutory exemption to the contrary or other lawful reason to deem information from reports confidential, information from unrestricted agency reports shall be made public upon proper request.

### **522.3.2 ARREST REPORTS**

- 1) Arrestee information shall be subject to release in the same manner as information contained in other reports as set forth above.
- 2) In addition to the restrictions stated above, all requests from criminal defendants and their authorized representatives, including attorneys, shall be referred to the [District/County Attorney], County Attorney or the courts.
- 3) Local criminal history information including, but not limited to, arrest history and disposition, fingerprints and booking photos shall only be subject to release to those agencies and individuals as prescribed by law.
- 4) Security and Release of Records and Information

### **522.3.3 TRAFFIC COLLISION REPORTS**

- 1) Traffic collision reports, and related supplemental reports, shall be considered confidential and subject to release only to other law enforcement agencies, authorized agencies, those individuals and their authorized representatives.
- 2) A traffic collision report shall be released to a person who provides two or more of the following items in addition to any fee required:
  - a) The date of the accident.
  - b) The specific address or the highway or street.
  - c) The name of any person involved in the accident.

### **522.3.4 PERSONNEL RECORDS**

- 1) Personnel records, medical records and similar records which would involve personal privacy shall not be made public.
- 2) Peace officer personnel records are deemed confidential and shall not be made public or otherwise released to unauthorized individuals or entities absent a valid court order.
- 3) The identity of any deputy subject to any criminal or administrative investigation shall not be released without the consent of the involved deputy, prior approval of the Sheriff or as required by law (NRS 289.025).

### **522.4 OTHER RECORDS**

- 1) Any other record not addressed in this policy shall not be subject to release where such record is exempted or prohibited from disclosure pursuant to state or federal law, including, but not limited to provisions of court or evidentiary rules relating to privilege.
- 2) The Office maintains the right to refuse to disclose or release any other record when it would appear that the public's interest in accessing such record is outweighed by the need for nondisclosure.
- 3) A non-record as defined in (NAC 239.051) may, if not otherwise prohibited by law, be destroyed at any time by the Sheriff or his/her designee without being scheduled for destruction by the State Library and Archives Administrator (NAC 239.131).

## **522.5 SUBPOENA DUCES TECUM**

- 1) Any Subpoena Duces Tecum (SDT) or discovery request should be promptly provided to a supervisor for review and processing.
- 2) While a Subpoena Duces Tecum may ultimately be subject to compliance, it is not an order from the Court that will automatically require the release of the requested information.
- 3) All questions regarding compliance with any Subpoena Duces Tecum should be promptly referred to legal counsel for the Office so that a timely response can be prepared.

### **522.5.1 RELEASED RECORDS TO BE STAMPED**

- 1) Each page of any record released pursuant to a Subpoena Duces Tecum shall be stamped in red ink with a stamp identifying the individual to whom the record was released.

## **522.6 PRIVACY AND SECURITY OF RECORDS**

Records such as offense reports, arrest reports, juvenile records or other sensitive records shall be secured in a locked room or locked cabinet with only authorized persons having access.